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V-S

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/861,989	05/22/97	DILLARD	K 60323

LMC1/0406

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EXAMINER

RETTA, Y

ART UNIT	PAPER NUMBER
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2764

DATE MAILED: 04/06/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

08/861,989

Applicant(s)

Dillard et al.

Examiner

Yehdega Retta

Group Art Unit

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☒ Responsive to communication(s) filed on May 22, 1997

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-20 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-20 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2,5

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1, 2, 6, 7, 9-11, 13, 15 and 17-19 are rejected under 35 U.S.C. 102(a) as being anticipated by Wasilewski et al. U.S. Patent No. 5,341,425.
3. As per claims 1 and 13 Wasilewski et al. discloses preventing unauthorized use of software transmitted over a communication link (see column 3 lines 1-9); an electronic unit with a unique software key (see column 3 lines 7-9); encrypting the software to be transmitted as a function of unique software key; transmitting the encrypted software over communication link (see column 3 lines 19-23); providing an upload program which only allows for uploading software into an electronic unit with a matching software key (see column 3 lines 30-43).
4. As per claims 2 and 15 Wasilewski et al. discloses software key embedded in electronic unit in which the requested software is to be uploaded (see column 6 lines 50-65).
5. As per claims 6 and 17 Wasilewski et al. discloses unique key initially used as a seed for encrypting software (see column 1 lines 43-56).

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6. As per claims 7 and 18 Wasilewski et al. discloses a wired communication link (see column 3 lines 60-63).
7. As per claim 9 Wasilewski et al. does not explicitly disclose footer tag that include unique software key. However, this feature is deemed to be inherent to encrypted message to including bits to indicate whether the message is encrypted or not.
8. As per claims 10, 11 and 19 Wasilewski et al. disclose upload program decrypting encrypted software (see column 7 lines 24-28 and 59-63).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 3-5, 8, 12, 14, 16 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wasilewski et al., and further in view of Teare et al. U.S. Patent No. 5,243,652.
11. As per claims 3, 4, 12, 14 and 20 Wasilewski et al. does not explicitly disclose global positioning system unit with unique software key and topographical data. Teare et al. discloses the use of global positioning system unit with unique location history used for topographical data (see column 3 lines 4-9 and 30-36). It would have been obvious to one of ordinary skill in the art

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at the time of applicant's invention to combine Wasilewski et al. and Tear et al. invention in order to determine locations.

12. As per claim 8 Wasilewski et al. does not disclose Internet link. However official notice is taken that Internet link is old and well known in the art of communication link. It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement Internet as transmission medium which is a readily available link.

13. As per claims 5 and 16 Wasilewski et al. does not disclose cyclic redundancy coding. However official notice is taken that cyclic redundancy coding is old and well known in the art of error detection . It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to implement cyclic redundancy coding in order to detect transmission errors.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hornbuckle U.S.Patent No. 5613089, Method and apparatus for remotely controlling and monitoring the use of computer software.

Murphy U.S.Patent No. 5640452, Location-sensitive decryption of an encrypted message.

Schipper et al. U.S.Patent No. 5577122, Secure communication of information.

Fennel, Jr. et al. U.S.Patent No. 4418425, Encryption using destination addresses in a TDMA satellite communications network.

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Hasebe et al. U.S.Patent No.5796824, Storage medium for preventing an irregular use by a third party.

Myers et al. U.S.Patent No.5272752, Authorization code lockout mechanism preventing unauthorized reception of transmitted data.

Logan U.S.Patent No.5199066, Method and apparatus for protecting software.

Chou et al. U.S.Patent No. 5638444, Secure Computer communication method and system.

Hasebe et al. U.S.Patent No.5555304, Storage medium for preventing an illegal use by a third party.

Chandra et al. U.S.Patent No.4916738, Remote access terminal security.

Kaufman et al. U.S.Patent No.5081678, Method for utilizing an encrypted key as a key identifier in a data packet in a computer network.

Schneier et al. U.S.Patent No. 5768382, Remote-Auditing of computer generated outcomes and authenticated billing and access control system using cryptographic and other protocols.

Cooper et al. U.S.Patent No.5757907, Method and apparatus for enabling trial period use of software products: method and apparatus for generating a machine-dependent identification.

Lee et al. U.S.Patent No.5790663, Method and apparatus for software access to a microprocessor serial number.

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15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (703) 305-0436. The examiner can normally be reached on Monday to Friday from 7:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached on (703) 305-9768.

Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-9051 (for formal communications intended for entry)

OR:

(703)308-5357 (for informal or draft communications, please label "PROPOSED"

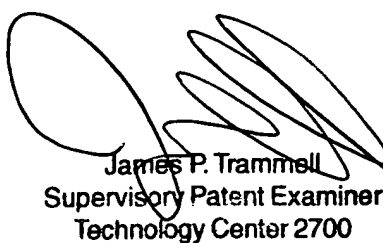
OR "DRAFT")

Examiner

Yehdega Retta

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March 22, 1999


James P. Trammell
Supervisory Patent Examiner
Technology Center 2700